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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/647,916	08/26/2003	Joachim Tiemann	01423P0006US	2443

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WOOD, PHILLIPS, KATZ, CLARK & MORTIMER
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EXAMINER

KATCHEVES, BASIL S

ART UNIT PAPER NUMBER

3635

DATE MAILED: 01/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/647,916

Applicant(s)

TIEMANN ET AL.

Examiner

Basil Katcheves

Art Unit

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 4-27 is/are pending in the application.
- 4a) Of the above claim(s) 6-21 and 27 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,5,22-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 4, 5 and 22-26 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,308,483 to Romine as in the previous office action.

Regarding claim 1, Romine discloses a dowel assembly having a pressing plate (fig. 5: 102), a dowel sleeve (162), attached to the pressing plate for an expansion element (41) with head (42), the dowel sleeve having an expansion zone (fig. 5: space occupied by 160), and cutting devices (146) at the lower side and circumference of the pressing plate.

Regarding claim 2, Romine discloses the pressing plate (102) as having a pressing plate shaft (shaft where aperture 148 is located) which can be shifted against the dowel sleeve (162).

Regarding claims 4, 24 and 25, Romine discloses an engagement device (160).

Regarding claims 5 and 26, Romine discloses the dowel sleeve as having an anti twist device (fig. 5: see side profiles of 162).

Regarding claims 22 and 23, Romine discloses the pressing plate as having a recess (fig. 5: where 48 fits) for the engagement of a drive (45).

Response to Arguments

Applicant's arguments filed 7/25/05 have been fully considered but they are not persuasive. Applicant argues that the prior art does not disclose a dowel, but discloses a roofing fastener. The applicant should note that the prior art meets the structural claim limitations of the instant application as claimed, and is related to piercing fasteners and therefore may be used in the office action. The applicant also argues that the prior art has barbs which are not similar to the cutting devices claimed. However, the limitations of the applicants cutting devices are broad and therefore met by the barbs of the prior art since the barbs are capable of cutting. Also, regarding the barbs, the applicant argues that they are not located at the circumference of the pressing plate. The applicant states that column 4, lines 42-43 of the prior art explicitly states that the barbs are located a distance from the circumference. However, these lines (42-43) state nothing about the circumference, they merely state that the barbs project from the second side of component 140. The definition of circumference is read as "the edge of a round object or area" (Encarta). Figure 6 shows the barbs located on circumferential edges (figs. 6 & 2:147) which project from the bottom of 144. In addition, the applicant argues the use of the instant application differs from that of the prior art. The applicant should note that structurally, the prior art is the same as the instant application and is

capable of cutting into insulation, or most any other material below it. Applicant should also note that the insulating plate is not positively claimed.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Basil Katcheves whose telephone number is (571) 272-6846. The examiner can normally be reached on Monday-Friday from 7:30 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman, can be reached at (571) 272-6842.

BK 

12/15/05


Carl D. Friedman
Supervisory Patent Examiner
Group 3600